

REMARKS

This Amendment is submitted in response to the Notice of Non-Compliant Amendment mailed on August 29, 2005, which stated that the August 12, 2005 Amendment was non-compliant. In particular, the Examiner stated that the claims were not provided with the proper status indicators. This Amendment includes the corrected status indicators, and is submitted as a replacement to the August 12, 2005 Amendment.

In the Office Action mailed on May 13, 2005, claims 8, 15, 17-28, 35, 36, 40, and 46 were withdrawn from consideration, and claims 1-7, 9-14, 16, 29-34, 37-39, 41-45, 47, and 48 were rejected. With this Amendment, claims 1, 4, 6, 13, 29, 32, 37, 38, and 42 are amended.

I. Election/Restriction

In the Office Action, claims 8, 15, 17-28, 35, 36, 40, and 46 were withdrawn from consideration pursuant to 37 C.F.R. § 1.142(b) as being drawn to a non-elected species, which is not dependant on an allowable generic or linking claim. However, as discussed below, claims 1, 4, 6, 13, 29, 32, 37, and 38, which claims 8, 15, 17-28, 35, 36, 40, and 46 depend from, are amended to place them in condition for allowance. As such, under 37 C.F.R. § 1.142(b), Applicant respectfully requests that the withdrawn claims 8, 15, 17-28, 35, 36, 40, and 46 be reinstated and allowed.

II. Claim Rejections under 35 U.S.C. § 112, Paragraph 2

Claims 1, 4, 6, 13, 29, 32, 37, 38, and 44 were rejected under 35 U.S.C. § 112, Paragraph 2 for indefiniteness. Applicant believes that the Examiner intended to reject claim 44 rather than claim 43, with respect to the term "may be". Claims 1, 4, 6, 13, 29, 32, 37, 38, and 44 are amended to remove the terms "lower", "may be", and the antecedent basis of claim 32. Thus, the rejection of claims 1, 4, 6, 13, 29, 32, 37, 38, and 44 under 35 U.S.C. § 112, Paragraph 2 should be withdrawn.

III. Claim Rejections under 35 U.S.C. § 102(b)

Claims 1-7, 9-14, 16, and 29-31 under 35 U.S.C. § 102(b) were rejected as being anticipated by Dorn, U.S. Patent No. 3,800,958 (“the Dorn ‘958 patent”). Claims 1, 4-7, 29, 31, 32, and 37-39 were also rejected under 35 U.S.C. § 102(b) as being anticipated by Duff, U.S. Patent No. 934,148 (“the Duff ‘148 patent”). As amended, independent claim 1 requires that the “first horizontal extension element is configured such that, when media is held by the media holding device, the first horizontal extension element is not disposed beneath the media”. Independent claims 29 and 37 respectively refer to “a horizontal support” and “a first horizontal support shaft and a second horizontal support shaft” rather than the “first horizontal extension element”, but are otherwise amended in the same manner. As shown in FIGS. 1B and 1C, the horizontal portions of the present invention are located behind the media, thereby substantially hiding the horizontal portions from view during use (see also, current application, p. 9, lines 22-23).

In contrast, the Dorn ‘958 patent and the Duff ‘148 patent each disclose book racks, where the media is supported by the horizontal portions of the book racks. In particular, the Dorn ‘958 patent discloses “[i]n all forms of the invention, the side bar 10 constitutes a stop member against which edge portions of the bindings of books on the floor provided by rails 16 will rest, *so that no part of any book binding edge may come in contact with a surface on which the rack is seated.*” (the Dorn ‘958 patent, col. 3, lines 9-14) (emphasis added). Similarly, the Duff ‘148 patent discloses “[a]s the books rest on the rods B and B’, it is evident that the sections are not liable to slide accidentally out of the adjusted position,...” (the Duff ‘148 patent, col. 2, lines 73-76).

Accordingly, the Dorn ‘958 patent and the Duff ‘148 patent do not disclose, teach, or suggest the use of a horizontal portion that is configured such that, when media is held by the media holding device, the horizontal portion is not disposed beneath the media. In fact, the Dorn ‘958 patent and the Duff ‘148 patent each teach away from this concept. As a result, independent claims 1, 29, and 37, as amended, are not anticipated by the Dorn ‘958 patent or the Duff ‘148 patent. Similarly, claims 2-7, 9-14, 16 (which depend from claim 1), claims 30-32 (which depend from claim 29), and claims 38 and 39 (which depend from claim 37) are also not anticipated by the Dorn ‘958 patent or the Duff ‘148 patent.

IV. Claim Rejections under 35 U.S.C. § 103(a)

Claims 9, 30, 33, 34, 41-45, 47, and 48 were rejected under 35 U.S.C. § 103(a) as being obvious over the Duff '148 patent. However, as discussed above, the Duff patent does not disclose, teach, or suggest the use of a horizontal portion that is configured such that, when media is held by the media holding device, the horizontal portion is not disposed beneath the media, as required by claims 1, 29, and 37. As a result, claims 9, 30, 33, 34, 41-45, 47, and 48, which respectively depend from claims 1, 29, and 37 are not obvious over the Duff '148 patent.

CONCLUSION

Because the prior art made of record does not show, suggest, or teach all the limitations in claims 1-48, pending claims 1-48 are in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested.

The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

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